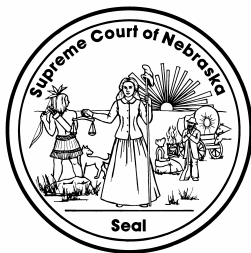


NEBRASKA OFFICE OF DISPUTE RESOLUTION

*WORKING TOWARD PEACEFUL RESOLUTIONS
TO CONFLICTS IN NEBRASKA*



Eleventh Annual Report
July 2002 - June 2003

NEBRASKA OFFICE OF DISPUTE RESOLUTION ELEVENTH ANNUAL REPORT July 2002 - June 2003

Table of Contents

	<u>Page</u>
Executive Summary	1
The Nebraska Dispute Resolution Act of 1991	2
Dispute Resolution Definitions	3
ODR Overview	4
ODR Advisory Council	5
The Dispute Resolution Centers	5
Ensuring Center Accountability	15
Nebraska: A National Model	15
Mediation Cost vs. Litigation Cost	16
Mediators	18
ODR Training Institute	18
Types of Services	19
Systems Design and Referral Development	19
Small Claims Mediation	20
Family/Divorce Mediation	20
Family Group Conferencing (FGC)	20
Restorative Justice	21
Facilitations	21
Study Circles	21
Special Education Mediation	21
Employment First Mediation	22
U.S. District Court Mediation	22
Participant Evaluations	22
Appendix	
2002-2003 Annual Statistics	
New Cases Opened by County	
New Cases Opened by Mediation Centers	
Case Types	
Cases by Disposition	
New Cases by Referral Sources	
Number of Cases by Funder	
Case Volume: Total Accumulation	
Case Volume: 11-Year Summary	

EXECUTIVE SUMMARY

I want to start by thanking everyone who tirelessly contributed to the passage of LB 760 which contained a funding provision for the Office of Dispute Resolution (ODR) and the support of the mediation centers. A new 75¢ fee was added to all court filings due to the passage of this bill. This money will go directly into a designated ODR cash fund to support the work of the mediation centers. We are so incredibly fortunate to have a legislative body, governor, and judicial system that see the value of mediation. This source of funding, combined with our general fund appropriation, will allow ODR and the centers to move forward in providing services to the citizens of Nebraska.

A second important piece of legislation was LB 255 – the Uniform Mediation Act. This legislation will strengthen existing state laws and court rules by providing a mediation privilege that permits the parties, mediator, and non-party participants to prevent the use of mediation communications in legal proceedings that take place after the mediation. This privilege is consistent with the current trend of state law protections for mediation, and, if adopted uniformly, will assure that mediation communications in one state will not be subject to admissibility in another state. In drafting LB 255, we were very careful not to interfere with the current ODR/community mediation statute.

As you will find in this report, each center is excelling at finding its own way to serve the varying needs of the citizens in the areas they represent. From the sandhills in western Nebraska to our most urban centers in the east, each center is taking on the responsibility of the success of their particular center. The centers' executive directors, boards, and staff are strong and committed to peaceful resolution in Nebraska. They continue to be a source of pride for our state as a public/private partnership that really works!

Please take the time to read the reports from the centers and examine the pie charts and statistical data. I think that you will be amazed at the varied work that the centers perform across the state and the professional manner in which it is done. It is important to realize that each case type can be very different in length of time to complete and in complexity; therefore, the numbers will not always tell the entire story. Having said that, they remain an indication that mediation in Nebraska is continuing to grow.

Thank you to all who supported the Office of Dispute Resolution and the centers during the year - we couldn't have done it without you!

Wendy Hind, Director
Office of Dispute Resolution

THE NEBRASKA DISPUTE RESOLUTION ACT OF 1991

The Nebraska Dispute Resolution Act of 1991
Approved unanimously by the Nebraska Legislature
Signed into law by Governor Ben Nelson

25-2902. Legislative Findings. The Legislature finds that:

- (1) The resolution of certain disputes can be costly and time consuming in the context of a formal judicial proceeding;
- (2) Mediation of disputes has a great potential for efficiently reducing the volume of matters which burden the court system in this state;
- (3) Unresolved disputes of those who do not have the resources for formal resolution may be of small social or economic magnitude individually but are collectively of enormous social and economic consequences;
- (4) Many seemingly minor conflicts between individuals may escalate into major social problems unless resolved early in an atmosphere in which the disputants can discuss their differences through a private informal yet structured process;
- (5) There is a need in our society to reduce and improve relationships between people in conflict which has a long-term benefit of a more peaceful community of people;
- (6) There is a compelling need in a complex society for dispute resolution whereby people can participate in creating comprehensive, lasting and realistic resolutions to conflicts;
- (7) Mediation can increase access of the public to dispute resolution and thereby increase public regard and usage of the legal system; and
- (8) Nonprofit dispute resolution centers can make a substantial contribution to the operation and maintenance of the courts of this state by preserving the court's scarce resources for those disputes which cannot be resolved by means other than litigation.

25-2920. Director; report. The director shall report annually to the Chief Justice, the Governor, and the Legislature on the implementation of the Dispute Resolution Act. The report shall include the number and types of disputes received, the disposition of the disputes, any problems encountered, any recommendations to address problems, and a comparison of the cost of mediation and litigation.

DISPUTE RESOLUTION DEFINITIONS

Dispute resolution alternatives range from avoidance to armed conflict, with litigation the most common formal approach used in our society. There are a growing number of alternatives to litigation that may be appropriate for certain situations, parties or types of dispute. While focusing primarily on mediation, the ODR system also continues to expand the types of other dispute resolution services available in Nebraska. The following definitions are provided to clarify terms used elsewhere in this report.

Conciliation uses a third party to work with parties separately in an attempt to correct misconceptions, reduce unreasonable fears, and improve communication to an extent that will permit direct discussion between the parties and lead ultimately to a voluntary settlement. Data collection and analysis can be an essential component of this process because it is diagnostic in nature.

Facilitation is a process that assists groups of people with goal setting, information gathering, and strategic planning. A facilitator helps a group move toward effective communication and participation in order to identify and explore issues. It is an efficient and effective means for larger numbers of people to manage and implement joint efforts. Facilitation also works in situations calling for Collaborative Problem Solving, where the facilitator helps a group to define problems, establish objective criteria for measuring possible solutions, generate options, and work toward consensus.

Family Group Conferencing (FGC) brings extended families, service providers, and others into a facilitated discussion to develop a plan for the well-being of abused or neglected children. It may also be used in cases of juvenile delinquency. Procedurally, the FGC coordinator contacts all parties who may play a role in the child's life, including relatives, Health and Human Services caseworkers, clergy, therapists, teachers, and others, to gain information and schedule a conference. At the family conference, the group first identifies the family's strengths, discusses concerns, and learns of specific care and protection needs that must be addressed for the child's well-being. Next, the extended family meets privately to develop a plan. Last, the family presents the plan to the larger group, which discusses it and tests the options proposed. If all participants arrive at a mutual agreement, the FGC plan can be implemented, or submitted for court approval.

Mediation provides a neutral third party (mediator) who has no decision-making authority and is impartial to the issues being discussed. The mediator is present in order to assist the parties to voluntarily reach a mutually acceptable settlement of the dispute. Mediation honors self-determination, respects each participants' uniqueness and values, seeks a mutual awareness of interests underlying the dispute issues, and often leads to self-enforcing agreements with which all participants are satisfied. Mediation can take place at anytime, either within or separate from the legal process.

Negotiated Rule Making is a process designed to involve all stakeholders in the implementation of legislation through active participation in the development of agency regulations. Nebraska has a Negotiated Rule Making statute. Particular legislation can prescribe citizen involvement through Technical Advisory Committees (TAC) such as the one to address leaky underground petroleum storage issues that was facilitated by the ODR system in recent years.

Restorative Justice has been commonly defined as a process whereby parties with a stake in a specific offense or a series of offenses resolve collectively how to deal with the aftermath of the offense and its implications for the future. Restorative justice, more than any particular practice, is a set of principles which form the paradigm for any agency or group in relation to crime. These principles can be stated as: (1) making room for the personal involvement of those mainly concerned (particularly the offender and the victim, but also their families and communities); (2) seeing crime and delinquency problems in their social context; (3) a forward-looking (or preventive) problem-solving orientation; and (4) flexibility of practice (creativity). Restorative justice sees criminal and juvenile justice as they relate to the social fabric of society and stresses relationship to other components, rather than a closed system in isolation. The offender is treated as a whole being, and crime and delinquency are seen as equally involving offenders, victims, and communities.

Study Circles are democratic, small-group participatory conversations that offer citizens the chance to get to know one another, consider different points of view, explore disagreements, and find common ground. Study Circles on race have been initiated nationally in the past few years and the ODR system has been actively involved in Nebraska.

ODR OVERVIEW

The 1991 Dispute Resolution Act established the Office of Dispute Resolution (ODR) in the Administrative Office of the Courts. ODR, with input from the ODR Advisory Council, oversees the development of dispute resolution and collaborative problem solving programs in Nebraska, assisting in the development of, and working collaboratively with, Nebraska's nonprofit mediation centers. The public-private cooperative effort creates an efficient, effective and responsive system that enhances existing structures and fosters new opportunities to prevent and resolve conflict.

Over the last eleven years, a sustainable infrastructure has been created through the formation of mediation centers, the establishment of program policies and procedures, the creation of nationally recognized training programs with highly-regarded trainers, the growth of a pool of committed, trained, and experienced mediators, and targeted efforts for public education and program development. Centers handle an ever-expanding case and project load, and meet the demand for training. This development is standardized statewide and yet responsive to the unique needs of the six regions served by nonprofit centers.

The ODR system operates as a collaboration between ODR, the ODR Advisory Council, and the mediation centers. Through shared decision-making, programming, training, and fund-raising, this integrated system has become a well-respected statewide dispute resolution service network known for its accessibility and competence.

The Dispute Resolution Act guarantees full access to mediation regardless of income. At the centers, no one is denied mediation because of an inability to pay. For those at 125% of the poverty level or above, a fee is charged using a sliding scale based on household size and income.

In some cases an administrative fee is charged. This can be reduced or waived for low-income clients. Small claims cases are mediated for no charge or for a nominal fee per party. Cases referred under contract, such as those through programs of the Department of Education and the Department of Health and Human Services, are paid by those departments at little or no cost to participants.

ODR ADVISORY COUNCIL

The Office of Dispute Resolution works with the ODR State Advisory Council to provide oversight and support for the statewide system. Membership, by statute, seeks to reflect the geographic, economic, professional, and cultural differences within our state. Each year, three terms end and the Nebraska Supreme Court appoints three new members to the Council. The Council meets quarterly, rotating between the ODR-approved mediation centers, to address issues of statewide importance relating to dispute resolution development, funding, public awareness, policy and procedures.

Members of the 2002-2003 ODR Advisory Council

James E. Gordon, Council Chair, Attorney and Mediator (Lincoln)
Linda Sanchez-Masi, Council Vice-Chair, Lancaster County District Court (Lincoln)
Joe Wright, Secretary, Attorney and Mediator (North Platte)
Hon. Curtis Evans, Judge of the County Court (York)
Michael Baumfalk, Department of Health and Human Services (Beatrice)
Anne Yu Buettner, Mid-Plains Center for Behavioral Healthcare Services (Grand Island)
Robert Kirby, Attorney and Mediator (Omaha)
Ellen Kohtz, Albion Public Schools (Albion)
Hon. Patricia Lamberty, Douglas County District Judge (Omaha)
Carl Eskridge, Public Council/Ombudsman Office (Lincoln)
Michael Schirber, Attorney and Mediator (Papillion)

Ex Officio Members:

Debora Brownyard, Executive Director, Nebraska Justice Center (Walthill)
Lynne Favinger, Executive Director, Central Mediation Center (Kearney)

THE DISPUTE RESOLUTION CENTERS

Six state-approved mediation centers serve every county across Nebraska. The centers have from two to eight staff persons, plus a pool of volunteer mediators and paid mediators. Each center is a private, nonprofit corporation governed by a board of directors drawn from the region served. The six centers have formed the Nebraska Mediation Center Association (NMCA) to deliver mediation training to the ODR Training Institute.

Center policies and procedures comply with the Dispute Resolution Act, the ODR Court Rules, and ODR Program Policies and Procedures. Case management, data collection, and quarterly reporting is standardized to allow for statewide referral networks, collaborative projects, and comprehensive evaluations. Each center is distinctively different, with distinguishing characteristics that reflect each center's own region, resources, and talents.

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Michelle Coolidge, Business/Case Manager

Mary Darveau, Northern Satellite Office Coordinator

Margaret Schaefer, Eastern Satellite Office Coordinator

Lori Sommer, Staff FGC Coordinator

Marcia Mehring, Program Support Specialist

Mediation Programs

CCR handled a total of 192 cases in 2002-2003. Of these cases, 49% were family cases, including divorce, parent-adolescent, family relationships; 12% were restorative justice cases – mostly juvenile; 13% were community cases including Special Education, workplace mediation, and staff/resident mediations in youth group homes; 7% were Employment First cases involving Employment First clientele and their HHS caseworker.

We have seen an increase in referrals in the family arena and the Center for Conflict Resolution continues to work to build collaborative relationships with community agencies as well as the court system and attorneys.

FGC / EFGC

Family Group Conferences and Expedited Family Group Conferences accounted for 19% of the cases handled during the year. While the number was slightly less than anticipated, the process has been well-received and we continue to work with the Department of Health and Human Services to evaluate and hone the process to better serve families in the Western Service Area of Nebraska.

Facilitation Programs

CCR conducted a “circle process” facilitation in the northern Panhandle that involved family decision making surrounding care for a youth and the parents' communication issues. Using similar tools from the FGC model, community support for the family was also included. We are pleased to be able to utilize tools and approaches from various models to enhance the services for our clients.

Training Programs

During the 2002-2003 year, CCR facilitated more than 160 hours of dialogue group discussions with youth at the Nebraska Boys Ranch and the Western Nebraska Juvenile Detention Center. More than 20 trainings/workshops were conducted, including PEER mediation training, bully-proofing workshops, after-school children and staff, community agency conflict resolution skills trainings, and race relations study circles. Also, the monthly Families in Transition classes were continued throughout the year and will remain in place for the coming year.

CCR was able to speak to several community partners including the Rape and Domestic Abuse Program in North Platte, Panhandle Mental Health Youth Providers, and Family Preservation. As a result, we continue to see a strengthening of ties with the communities we are a part of and look forward to seeing this movement continue.

Funding Streams

Various sources have been made available for services in the Panhandle area. Such sources include Access and Visitation funds, Commission on Public Advocacy funds, Juvenile Accountability Incentive Block Grant (JAIBG) funds, Nebraska Department of Education funds, Employment First funds, 21st Century Community Learning Center funds, and client payment.

In addition to these funding streams, we have been fortunate to be a part of a large collaboration movement in western Nebraska. As a result, there have been several opportunities to partner with community entities and play a significant role in supporting the philosophy and "peaceful processes."

CENTRAL MEDIATION CENTER (CMC)

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Carol Dart, Program Director
Paty Reyes-Covalt, Project Coordinator
Denise Haupt, Office Services Coordinator

Central Mediation Center has just completed our second full year with the same highly qualified staff in the same location. We feel this stability has helped Central Mediation Center attain greater visibility within our 31-county area as well as increased income. In addition, we are still enjoying this large facility that has allowed us to host statewide NMCA meetings, trainings, and have large team meetings and Family Group Conferences on our premises.

CMC continues to grow financially as we had a significant increase in net income compared to last year. The money from the Supreme Court, as well as grants from Access & Visitation and Public Advocacy, is allowing us to work on a financial solid ground.

Another reason for the increase in income is a 26% growth in Family Group Conference/ Expedited Family Group Conference cases referred by Nebraska Health and Human Services. In addition, Nebraska Health and Human Services wants to increase the array of services mediation centers can do through the FGC contract to include mediations, facilitations, and trainings. We feel there is great room for growth through this contract. Evaluations from FGC participants are extremely high statewide so we are slowly building credibility and trust with referral sources and the courts.

Because of funding uncertainties the first half of this fiscal year, we discontinued our small claims mediation project. However, we recently received a grant from the Public Advocacy Commission and are restarting that program. In addition, we have been in contact with Nebraska Legal Services in our area and are working with them to get more cases from them. We are looking forward to a successful partnership with Nebraska Legal Services. When we mediate cases, their attorneys have more time to just do the legal work necessary. They do not have to spend their valuable time with couples arguing about divorce issues. It is a win-win situation for both the mediation centers and Nebraska Legal Services. Both organizations are able to do what they do best.

CMC continues to participate in several other regional and statewide contracts. These include: Juvenile Accountability and Incentive Block Grant, Special Ed mediation through the Nebraska Department of Education, Access and Visitation through Nebraska Health and Human Services, mediation for UNL employees, Employment First, and other agency contracts.

More conflict resolution and communication training contracts also helped to increase our net income. We hope to do more training for various organizations and businesses. We continue to do conflict resolution trainings weekly for the juveniles who attend the Day Reporting Center in Grand Island. Evaluations by both the juveniles and staff at the reporting center are very high.

Even though our caseload has increased, we should be mediating and facilitating many more cases. We will continue to raise awareness of our mediation services throughout our 31-county area by meeting with different agencies and groups. We look forward to another year of growth at Central Mediation Center.

CONCORD CENTER

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Our Vision: Creating pathways from conflict to peace.

Our Mission: Concord Center creates pathways of constructive dialogue and conflict resolution through consensus building activities of mediation, facilitation and education.

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Rita Thacker, Business Manager

Concord Center experienced steady growth in cases opened and clients served during the 2002-03 fiscal year. A major focus of casework included serving children and families through Family Group Conferencing, Parenting Plan Mediation and Dependency Mediation. Health and Human Services, the Separate Juvenile Courts and the Conciliation Court continue to serve as referral sources for the clients.

Concord Center conducted a Basic Mediation Training for the Human Relations Department of the City of Omaha as part of a Housing and Urban Development community partnership grant awarded to the city. Staff from the Nebraska Equal Opportunity Commission and Fair Housing Center of Nebraska also participated.

The Sarpy County Small Claims Court Day in Court mediation project affords opportunities for clients to resolve their disputes with higher satisfaction in process and outcome. This project has been an effective way for members of the community to learn more about the benefits of mediation.

A Volunteer Appreciation event was held in March to honor the talented and generous mediators and center volunteers who support the mission of Concord Center. Grant Story and Bette Trumble were named Outstanding Volunteers for their tireless service.

To develop the next phase of Concord Center's growth, the Board of Director participated in a strategic planning session to identify areas of focus including: serving underserved individuals such as non-English speakers, looking for ways to strengthen the collaboration with the Separate Juvenile Courts of Douglas and Sarpy Counties through restorative justice and dependency mediation programs, staying true to community mediation fundamentals by collaborating with neighborhood associations and other community groups, and bringing the awareness of and skills in conflict resolution to the community through workshops and training programs. The mediators, board and staff of Concord Center look to the next fiscal year with enthusiasm and excitement.

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Danelle Vrbicky, Office Administrator

Kathy Morgan, Case Manager and Program Assistant

Nikki Browning, Office Support

Kristin Ostrom, Fremont Area Mediation Director

Terry Thompson, FGC Program Director

Nebraska Justice Center experienced a strong, sustaining year during the 2002-2003 cycle. The core administrative and program staff for NJC continues to be solid, with Debora Brownyard serving in her twelfth year as director, Kathy Morgan serving in her eleventh year as case manager, Danelle Vrbicky serving in her third year as office administrator, Nikki Browning in her second year as office support, Kristin Ostrom in her second year as director for the Fremont satellite office, and Terry Thompson completing her first year as FGC Program Coordinator (Atkinson, Nebraska).

Following are some highlights from the past year:

- A 20% increase in open cases, exceeding our goal of 15%, with a total of 202 new cases opened for the program year.
- Fremont Area Office (satellite office) accomplished its Divorce Mediation Project, which was a year-long collaborative process to address whether and what kind of court rule to adopt to enhance the legal process of domestic relations cases. The outcome: In early 2003, the Dodge County District Court adopted a Standard Domestic Progression Order, requiring parent education classes for all domestic cases, requiring submittal of a parenting plan in all cases, and recommending mediation as a means to achieve a parenting plan. Judge F.A. Gossett and Judge Daniel Beckwith, local area attorneys, local therapists, the Crisis Center, and Hispanic advocates were all part of the work group that researched national divorce court rules, parent education classes, and mediation. The University of Nebraska Extension Office provides the two-part, six-hour parent education classes.
- Exceeded our Family Group Conferencing (FGC) case goal of 24 by 7 cases, for a total of 31 new FGC cases.
- Met our Expedited FGC goal of 12 new cases.
- Met our Juvenile Accountability and Incentive Block Grant (JAIBG) case goal of 13 cases, as well as provided two JAIBG workshops for over 40 northeast Nebraska Health and Human Services staff.

- Received a national funding status from the U.S. Department of Justice (USDOJ) Executive Office for Weed and Seed (EOWS) in the form of a finding of “Official Recognition” for NJC’s Thurston County – Omaha Tribe – Winnebago Tribe Tri-Jurisdictional Weed and Seed Application.
- Convened NJC mediator luncheons in Norfolk and Fremont to provide workshop on bias and mediation and to receive mediator feedback on survey requests.
- Upgraded staff case management process in two key areas: Kathy Morgan and Kristin Ostrom for the Fremont-Walthill case protocols and Terry Thompson, Danelle Vrbicky and Nikki Browning for the Family Group Conferencing case protocols.
- Convened two FGC coordinator working sessions to enhance internal and external services.
- Facilitated several large group policy and community collaborative initiatives, including tribal, organizational, state, and service area.
- Debora Brownyard continues to serve as a Board member for the National Association for Community Mediation (NAFCM), Washington, DC, in the role of Treasurer and Co-Chair of the Development Committee. She represented NAFCM and Nebraska Justice Center as presenter for two workshops on mediation at the Network of Communities in Peacemaking and Conflict Resolution in Atlanta, Georgia, in April, 2003.
- The NEBHANDS project of the University of Nebraska Public Policy Office selected Debora Brownyard’s workshop “The Transformative Journey of Community Consensus Building” for presentation at its June 2003 statewide kick-off conference in Lincoln.

The opportunity to serve Nebraska citizens with conflict resolution, mediation and consensus building continues to inspire and reward NJC staff, board, and mediators. This past year has seen an increased focus on Family Group Conferencing cases, parenting plan cases, the Tri-Jurisdictional Weed and Seed initiative, and supporting NJC mediators.

The Family Group Conferencing project has required that NJC support the initiative through staffing and contracting. Terry Thompson of Atkinson came on as NJC’s FGC program coordinator in July 2002 and has devoted herself to building relationships with NJC’s FGC coordinators, the Health and Human Services staff, judges, and others. Her initiative and leadership in this arena is essential for NJC to provide quality services to families and providers. Kristin Ostrom, of the Fremont office, serves as one of NJC’s staff FGC Coordinators, particularly for the Expedited FGC cases. Connie Bear King, Cathy Saeger, Patty Houser, Dick Stafford, and Rob Coupland have all provided strong and competent FGC Coordinator work for NJC.

NJC continues to participate in several other regional and statewide contracts. These include: Commission on Public Advocacy (subsidizing a limited number of mediations for indigent clients); Access and Visitation (subsidizing a limited number of mediations for parenting plan cases); JAIBG, Juvenile Accountability and Incentive Block Grant (subsidizing a limited number of mediations for youth involved with juvenile justice); Employment First; Special Education; and other agency contracts.

NJC’s mission, to provide access to justice through peaceful processes, continues to be our inspiration and guide in our work. Continuing to become known, respected, and utilized throughout our 24-county, 4-tribe region is our goal. The continuity of staff, sustaining funding, and mediators will help us to move forward year-by-year toward that goal.

THE MEDIATION CENTER (TMC)

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Muggs Bonnett, FGC Coordinator

Peggy Shorney, FGC Coordinator

Staff Changes

For the first time since 1992, The Mediation Center (TMC) engaged in a search for a new Executive Director this year. TMC is grateful to Betsy Kosier for the leadership and commitment she demonstrated in her ten years as Executive Director, and for the graceful transition she provided as she left. Nonetheless, this change brought two major additions to staff and board responsibilities: covering the responsibilities left unstaffed, and finding a new Executive Director. The dedication and leadership provided by board and staff alike helped make the process an occasion for reexamination and growth. The Board and staff engaged in a strategic planning process and identified new directions for TMC and its management. What might have been a difficult time of uncertainty was for TMC a time of great teamwork and anticipation. After an extensive and successful search process which brought in applications from 15 different states, Kelly Phipps was hired as the new Executive Director of The Mediation Center. Kelly will be leading TMC through the process of refining and implementing the strategic plan in the years to come.

Program Overview

The staffing changes of the past year brought inevitable adjustments in the programmatic emphasis and case volume of TMC. With the need to cover TMC's management functions, some programs received decreased emphasis or were placed on hold. Other programs, such as Restorative Justice, were discontinued due to lack of funding.

TMC opened 259 cases this year. While that number is down from previous years, the percentage of cases actually going to the table went up to 73% this year. Furthermore, of those cases actually mediated, 85% reached agreement; a record high for TMC's history. FGC continued to grow as a service area with 53 cases opened, and additional staff time was added to meet the demand. The base of volunteer mediators also remained strong with approximately 75 mediators involved with Center activities.

Altogether, most of TMC's programs remained relatively stable throughout this year of transition. As TMC attempts to implement its strategic plan and expand the scope and quality of its service in the community, evaluation of programs and staff assignments will be ongoing.

Service Innovations

- TMC began providing "Expedited Family Group Conferencing." This program uses a neutral facilitator to help develop a plan for the safety and permanency of children being removed from their home. Whenever possible, expedited FGCs are held within 72 hours of removal. This is in addition to the successful "regular" FGC program.
- TMC received a grant from the Commission on Public Advocacy to expand service to low-income clients in divorce and small claims cases.
- TMC assessed and implemented improvements to the Small Claims Court Mediation day-of-court model. TMC is now able to access case information through the State's trial court automation system, and with the capacity of an intern, parties are now being contacted regarding the mediation option prior to their court date.
- TMC staff facilitated a pilot project with United Way to make collaborative decisions on resource allocation to member agencies. This method was piloted with service providers in domestic violence and hunger prevention.

Financial Status

TMC remained financially sound, completing the year with income that exceeded expenses by over \$4,000. Furthermore, TMC was fortunate to be able to maintain its current staffing levels, and even make modest expansions. TMC was also fortunate to receive three major capacity building grants this year from local foundations to assist in the transition to a new Executive Director, and the third annual fundraising event was a success.

TMC continues to balance its reliance on grants with resources from fee-for-service contracts enabling TMC to magnify its impact in the community. In light of the national economy that has caused significant financial challenges for organizations everywhere, TMC's financial stability and modest growth is a success to be celebrated.

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Judy Pingel, Executive Director
Peggy Carrel, Mediation Coordinator

It has been a busy year for TRC, and we continue to grow and prosper. After several months of not having office help, Peggy Carrel was hired for a part-time position in December and is now working three-fourths time.

TRC was awarded a grant this year from Public Advocacy Funds. This will help cover the costs of mediation for 31% of our clients. TRC is receiving more referrals from the courts, not only family issues, but also restorative justice cases.

TRC conducted several conflict management skill workshops for Probation and Saline County Diversion program. A total of 112 people participated. The parent workshop has been very successful and growing. A total of 246 people have participated with an overall satisfaction rate of 91.87%.

The Board of Directors has been instrumental in promoting TRC. A letter of introduction and brochure was sent to businesses, banks, judges, court clerks, probation officers and organizations in our service area. The Board hosted an open house in October. In January, a retreat for Board of Directors and staff was held and together set both short and long-term goals for the Center. The board has two new members, Marian Beethe, Director of the Farm Mediation Program, and Shirley Higgins, lobbyist for NPPD. Vince Benjamin has taken a leave of absence due to health reasons.

A presentation on restorative justice was given to the District 12 probation officers. Presentations were made at the One Stop Community Center Interagency meeting and Peggy Carrel talked at the meeting consisting of businesspersons in Beatrice. A newsletter has been developed and will be done on a quarterly basis. A web site, designed by Clive Wiggan, is also under construction.

In an effort to maintain quality mediators, the policies were reviewed and updated to ensure best practices and quality mediation.

Maintaining financial stability, researching funding sources, program development and promoting mediation in 16 counties is the priority of The Resolution Center.

ENSURING CENTER ACCOUNTABILITY

While ODR assists in the development of dispute resolution programs, the office also provides oversight regarding the quality of available services. ODR oversees and maintains the statewide ODR Policy Manual and ODR Training Institute Standards and Guidelines. Updates and revisions occur regularly and are achieved through joint input and involvement of the State Advisory Council and the centers.

Accountability is built into the system at a number of levels. Every three months, the mediation centers submit quarterly reports consisting of electronically transmitted updates of all cases, projects, and other services provided during the reporting period, as well as quarterly financial statements. ODR merges the data and prepares a statewide quarterly report of all system activity. These quarterly reports are reviewed by the State Advisory Council at regularly scheduled meetings. ODR and the centers meet regularly to review activities and projects, exchange information, assess programming, and plan collaborative efforts.

ODR and statute establish the criteria by which the centers are evaluated. The State Advisory Council members and ODR schedule annual reviews of each center. Regular audits are also required of the centers. The State Advisory Council reviews all information and makes recommendations for the continued funding of each center.

NEBRASKA: A NATIONAL MODEL

Structurally, Nebraska serves as a national model. In 1991 the Nebraska Unicameral passed and funded the Nebraska Dispute Resolution Act. It is significant legislation for a number of reasons. First of all, it makes Nebraska the only state to systematically provide access to services to all of its citizens equally. Secondly, it envisions the courts as important partners with community mediation centers in providing dispute resolution services.

This public-private partnership allows the courts to do what they do best - litigate, and the centers to do what they do best - mediate. This results in more judicial time to decide cases that are not able to be resolved by the parties themselves. This partnership also allows parties the opportunity to make their own decisions and to save time, money, and stress by using the mediation option. In the past eleven years in Nebraska, there have been a growing number of court/mediation center projects in small claims, juvenile misdemeanor, and family cases particularly. Still much more could be done. This is a very significant relationship that needs recognition and re-enforcement. Courts must become more responsive to the needs of the communities they serve to improve public confidence in the legal system, and mediation centers need to receive judicial recognition as important players in the administration of justice in order to have their services effectively used.

Nebraska also serves as a national model structurally because, in addition to court-related projects, mediation centers also provide services to state agencies such as the Nebraska Department of Education, Health and Human Services, and Corrections. Much of the funding for these programs is coming from the federal government. In fact, the U.S. Department of Justice has been supporting community mediation for over 30 years with the designing and funding of the first national community mediation programs in the mid-1970's. Since that time, the Department has supported a breadth of development through direct services, training, research and evaluation and public awareness.

In the past 30 years, community dispute resolution has had impressive development in this country. Today there are well over 500 community mediation programs serving their communities with thousands of volunteer mediators supported by state offices and networks, as well as a number of national organizations, and the federal government. Structurally and programmatically, Nebraska has been a leader in this innovative, comprehensive approach to the delivery of dispute resolution services.

ODR represents Nebraska nationally at the annual meeting of the state offices of dispute resolution convened at the Policy Consensus Initiative/Association for Conflict Resolution Conference. The office also provides a national connection for Nebraska within such organizations as the Nebraska Bar Association, the American Bar Association, the State Justice Institute, and Provider Organizations. We are also honored to have two of our center directors serving on the board for the National Association for Community Mediation.

MEDIATION COST VS. LITIGATION COST

This is the first year that ODR is adding any quantitative data regarding the amount of savings that can be obtained by using mediation over litigation. At this point, the Nebraska court system has no means of calculating how much a case costs the state using traditional court room methods. ODR and the mediation centers have taken a few steps to begin calculating the cost of mediation, but do not have a uniform quantifying tool.

A few states have begun to gather such data. In 2001, Virginia's Juvenile and Domestic Relations courts adjudicated 56,575 cases. The cost to the state was \$47,709,118 or \$843 per case. During fiscal year 2001, the number of cases that were mediated through Senate Bill 127 totaled 6,649 at a cost of \$120.75 per case (with a \$100 stipend per mediator per case). Their center statistics showed that over 80% of the people who received mediation services earn less than \$25,000 per year. This last statistic closely parallels Nebraska mediation participants.

Another recent cost comparison (2/28/03) has been done by the United States Institute for Environmental Conflict Resolution. Their study is in support of the economic benefit of using mediation over litigation. Parts of this study are included below:

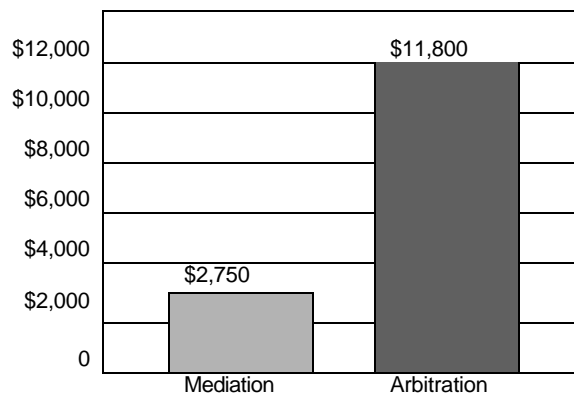
Mediation less costly than litigation. An Oregon Department of Justice (ODOJ) study comparing legal/process costs across a diverse range of disputes, including environmental conflicts, founds that "...the [monthly] cost of resolving a case by taking it through a trial to a verdict (\$60,557) is on average, the most expensive. At the other end of the spectrum, mediation costs about \$9,537."¹

ADR versus Litigation: The Spectrum of Costs
Derived from the Oregon Department of Justice (2001)
*Average Monthly Legal/Process Costs by Type of Process (\$) **

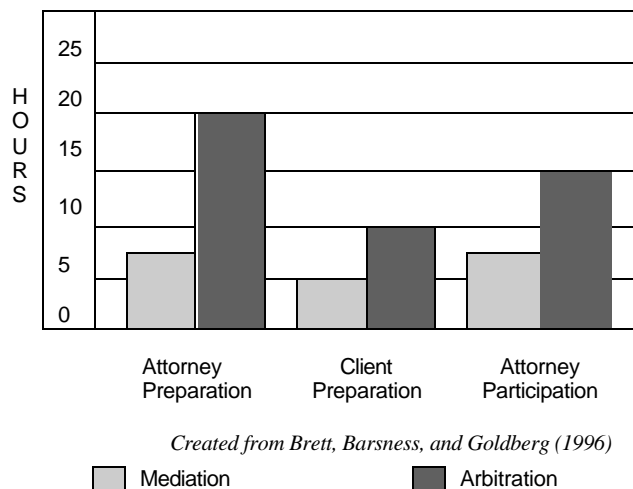
Mediation	Dispositive Motion	Settlement Negotiations	Arbitration	Trial Settlement	Judicial Settlement	Trial Verdict
9,537	9,558	10,344	14,290	19,876	21,865	60,557

* Legal/process costs are defined to include all the charges, billings and expenses associated with a particular process such as the ODOJ attorney billing, mediator and expert witness fees, and related expenses, but does not include the amount of any award or settlement resulting from the process or time invested by agency staff who may be involved in the process/case.

Mediation can be far less expensive than arbitration. In a study of 449 ADR cases, "Mediation was far less expensive than arbitration....the median cost of mediation was \$2,750; the median cost of arbitration was \$11,800."²



Savings from reducing attorney time. Findings from a study of 449 ADR cases suggest that one reason for cost savings was "...the time spent by attorneys preparing for and participating in mediation was substantially lower than the time spent preparing for and participating in arbitration."²



Cost avoidance. The states of Colorado and Kansas have estimated that mediation of a water dispute has saved them millions of dollars in legal costs. "Colorado, Nebraska and Kansas have settled a 4-year-old lawsuit over the use of water from the Republican River, which runs through all three states. Under the terms of the settlement, no damages will be awarded and all three states will help develop resolution process before filing lawsuits should future disagreements over water use from the river arise. 'We're clearly winners here,' said Ken Lane, spokesperson for the Colorado Attorney General's Office. 'Colorado has no damages, and we avoid paying the \$5 million it would have cost to litigate this lawsuit,' he said."³ "Kansas Governor Bill Graves said the settlement avoids additional costly litigation while preserving and strengthening the Republican Compact. 'I am pleased that a settlement has been reached by the parties in this case and that we now have a mutually accepted solution to water-use governance in the Republican basis,' Graves said. Nebraska and Colorado will pay no monetary damages as a result of the settlement."⁴ Kansas Attorney General Carla Stovall said "...she didn't know the cost of the lawsuit so far, but said it costs the state roughly \$1 million per year to litigate a water case."⁵

¹ State of Oregon Department of Justice, "Collaborative Dispute Resolution Pilot Project," A report submitted January 30, 2001 to the Honorable Gene Derfler, Senate President, The Honorable Mark Simmons, House Speaker, and The Honorable Members of the Legislature.

² Brett, Jeanne M., Zoc I. Barsness, and Stephen B. Goldberg, "The Effectiveness of Mediation: An Independent Analysis of Cases Handled by Four Major Service Providers," *Negotiation Journal*, 12, no. 3 (1996): 259-269.

³ Smith, Jerd, "3 States Settle Water Lawsuit." Rocky Mountain News, December 17, 2002. Available at: http://insidedenver.com/drmn/state/article/0,1299,DRMN_21_1614680,00.html. Accessed January 2003.

⁴ The Associated Press, "Nebraska settles water dispute," The Topeka Capital Journal, Available online at <http://www.cjonline.com/egibin/printit2000.pl>. Accessed January 2003

⁵ The Associated Press, "Nebraska settlement water dispute," The Topeka Capital Journal, Available online at <http://www.cjonline.com/egibin/rpinti2000.pl>. Accessed January 2003.

The above examples show trends in the data being collected on the costs of mediation versus litigation. As more quantitative analysis is produced, we will be able to use this data to show our law makers, judges, and attorneys the benefits of increasing the amount of mediation that is being done in Nebraska.

MEDIATORS

ODR has worked collaboratively with the centers to develop and promote internationally respected training programs, with built-in apprentice opportunities for those seeking to practice their skills in Nebraska. The statewide affiliated mediator program provides for supervised experiential learning after Basic Mediation Training is completed. Trainees who are accepted into the program by one of the six centers may take training at half the registration fee, agreeing to volunteer a minimum of 24 hours as a mediator. Mediators are then paired with experienced mediators to mediate cases. This builds their skills and provides a valuable service to the community. Centers also provide regular in-service activities for the continuing education of their mediators.

ODR works with the mediation centers to ensure compliance with the Standards and Ethics for Mediators, as established in the Dispute Resolution Act. Centers work in conjunction with ODR to establish evaluation and grievance procedures that allow those using mediation to report concerns to center directors, and allow ODR to monitor the satisfaction levels of those using mediation across the state. ODR encourages the use of co-mediation, both for skills building and additional oversight.

Year after year, Nebraska's center-affiliated mediators continue to demonstrate an amazing commitment to community service, working for little or no financial reward as they engage in grassroots peacemaking across our state. In 2002-2003 the centers had 313 active volunteers, and contributed a total of 5,639 hours of service! 165 volunteer mediators were utilized during FY 2002-2003. These mediators, combined with contract mediations and staff mediators contributed 3,833 hours of time in mediation.

ODR TRAINING INSTITUTE

Since 1992, ODR and the Mediation Centers have worked together to create and improve state-of-the-art training materials and rigorous standards for trainers, providing excellent hands-on training for Nebraskans and making Nebraska a model for the nation. ODR programs have attracted participants not only from surrounding states, but from across the world.

Mediation is an experience-based skill. Courses through the ODR Training Institute are only a start. Through the centers, mediators have the opportunity to practice what they have learned by working with experienced mediators in an apprentice role. The result is an ever-growing pool of professionally trained, experienced mediators available for dispute resolution across the state.

ODR training opportunities attract practicing mediators, those seeking to improve personal or professional problem-solving and communications skills, people interested in developing conflict resolution systems, and those who want to model more peaceful means of interaction and problem solving.

NMCA Training Institute Faculty

Trainers for the Training Institute have met rigorous training standards and bring with them a variety of life experiences and professional backgrounds. Guest trainers often are invited to conduct training in advanced and specialty areas. Past nationally recognized trainers who have been brought to Nebraska include: Angeles Arrien, Michael Keating, Jim Melamed, Nina Mierding, Carl Moore, Mark Umbreit, Zena Zumeta, William Potapchuk, and Robert Benjamin.

Lead Trainers:

Debora Brownyard, JD - Executive Director of the Nebraska Justice Center, practicing attorney mediator, and adjunct professor at Creighton School of Law. She has a background in family, business, negotiation, disabilities and Native American law. Deb is currently serving on the Board of the National Association for Community Mediation.

Lori Burkey, MA - Executive Director of the Center for Conflict Resolution with a master's degree in conflict resolution. She is co-author of the Nebraska Family Mediation Manual and a Parent Education Program curriculum for divorcing families in Nebraska. Lori is currently serving as a co-chair on the Board of the National Association for Community Mediation.

Mary Lee Brock, M.Ed. - Executive Director of Concord Center has a master's degree in Counseling and Personnel Services. Mary Lee blends program development with mediation and facilitation experience. Her passion for conflict resolution constructs developed through college student affairs work where she helped residence life groups develop community and productively manage conflicts.

Paul Ladehoff, MS, JD - Program Coordinator of The Mediation Center, a practicing attorney mediator with previous experience as an environmental litigator, and adjunct professor at the University of Nebraska. He has mediated a wide variety of disputes and facilitated group decision-making in many contexts. Paul previously worked as an environmental litigator and taught college mathematics.

TYPES OF SERVICES

Systems Design and Referral Development

ODR works with Nebraska commissions and agencies to create dispute resolution alternatives within governmental and public sector organizations.

State agencies and the ODR system work collaboratively to offer additional conflict resolution services to the public. A project can involve a number of components such as program procedures, referral systems, outreach and education, contract or grant writing, and staff and mediator/facilitator training. This year, the ODR system worked with the University of Nebraska, Department of Education Special Populations Division; Client Assistance, Vocational Rehabilitation, and Nebraska Commission for the Blind and Visually Impaired; the Department of Health and Human Services Employment First, Child Support Enforcement, Child Protective Services Programs, Office of Juvenile Services; and the Department of Corrections.

Integrating mediation into the justice system occurs at many levels. Projects involve referral procedures, education, intake and case management, funding, and monitoring. Programs have been developed or enhanced for small claims courts, juvenile court, county court, district court, and cases through the U.S. District Court.

Small Claims Mediation

Over 28 Nebraska courts now offer mediation as an option for small claims cases. While these types of disputes are central to the mission of most community mediation centers, no separate funding is available in Nebraska to meet the costs of mediating them. Center fees range from zero up to \$10 per person to mediate a small claims case; however, cases cost roughly \$100 to conduct. This is a barrier to centers wishing to be more active in this area. Small claims mediation cases average about an hour. 159 cases were conducted during FY 2002-2003.

Family/Divorce Mediation

Increasingly in Nebraska and across the country, family and divorce issues are being addressed through mediation. This year the ODR system had 502 family and divorce cases.

Both the Dispute Resolution Act of 1991 and the Parenting Act of 1994 encourage the use of mediation in matters involving domestic relations. In Douglas County, under Court Rule 4-3, mediation is required in divorce cases involving children. The Parent Education Act of 1998 allows courts to order divorcing couples to attend a workshop on divorce; many of the centers offer such courses as a complement to their mediation services.

Prior to mediating in this area, experienced mediators attend an additional 30 hours of family mediation training, including a component on domestic violence issues. Parties are encouraged to consult with attorneys prior to signing any agreement which might come out of mediation. Case referrals are also received from Legal Services, attorneys, counselors and the courts.

Family Group Conferencing (FGC)

A specialized form of facilitated decision-making called Family Group Conferencing (FGC) has attracted the attention of those involved in the areas of child abuse/neglect and juvenile delinquency.

The approach brings in the extended families of the children affected, to make decisions about the needs of those children with the advice and oversight of HHS and other professionals. The approach empowers the family to take responsibility for problems within the family. Families often respond with HHS-approvable plans which keep children within their extended families, thereby reducing the number of children in foster care. FGC originated in New Zealand and is now used in many states.

During 2002-2003, the centers conducted over 245 Family Group Conferences. A tremendous growth over last year's 149 cases.

Restorative Justice (formerly referred to as Victim/Offender Mediation)

Restorative Justice (RJ) is one application of a broader restorative justice movement which is increasingly finding proponents among law enforcement officers, victim's rights advocates and the juvenile justice system. Restorative Justice holds juvenile offenders directly accountable to those they have harmed, giving them an opportunity to meet face-to-face with their victims to take responsibility for the damage they have caused. Restorative Justice brings victims who so desire into the justice process, allowing them to get their questions answered and to achieve closure to an unpleasant episode in their lives. Since the early 1990s, over 1,000 restorative justice programs have been established across the country. The centers worked on 85 Restorative Justice cases in 2002-2003.

Facilitations

Facilitations are mediated discussions among larger groups, often not focused so much on particular issues in dispute as on a set of decisions to be collaboratively made. Mediation skills are valuable in a facilitation setting; center facilitators receive additional training specific to group decision-making and to techniques for working effectively with groups both in, prior to, and following facilitated meetings.

When citizens take a more active role in the issues that affect their lives, there is greater potential for sustainable resolutions. The ODR system has worked with local and state governments and organizations on environmental, educational, housing and law enforcement issues. This year the ODR mediation system conducted 32 of these types of facilitations, and 5 strategic planning facilitations.

Study Circles

Study circles bring a racially diverse group of people together in a facilitated discussion of their experiences and fears, in order to bring about a deeper understanding between groups. Typically, a study circle involves about a dozen people who meet together several times, sharing stories, asking questions, identifying interests and growing together in respect and understanding. Study circles are a conflict prevention tool. With increased understanding within the community, potential race-related tensions in the future will be less common and less likely to become inflamed. For example, several mediation centers conducted study circles to help groups communicate regarding the tragic events of September 11, 2001.

Special Education Mediation

ODR, the Department of Education, and the mediation centers have completed their ninth year of a collaborative effort to provide mediation services for situations involving children with verified disabilities. The agreement provides both for the managing of mediation cases and for project education and outreach. This year, 28 Special Education cases were opened. Statewide 246 cases have been opened over the nine years of the program.

Employment First Mediation

Seven years ago, in order to implement Nebraska's welfare reform efforts known as Employment First (EF), the Department of Health and Human Services (HHS) and ODR entered into an interagency agreement to provide conflict resolution services in two pilot areas in the state, one urban and one rural. Training was conducted for HHS staff and in-service workshops for center mediators.

The project covers the entire state and this year 32 cases were opened.

U.S. District Court Mediation

The Mediation Project of the U.S. District Court began with the approval of the General Order for Court-Annexed Mediation in the United States District Court for the District of Nebraska. Mediators affiliated with the six state-approved mediation centers and those in private practice receive training, apprenticeships, case referrals and management, and continuing education through the Office of Dispute Resolution statewide system. All federal court litigants and their attorneys have high-quality, affordable mediation services available.

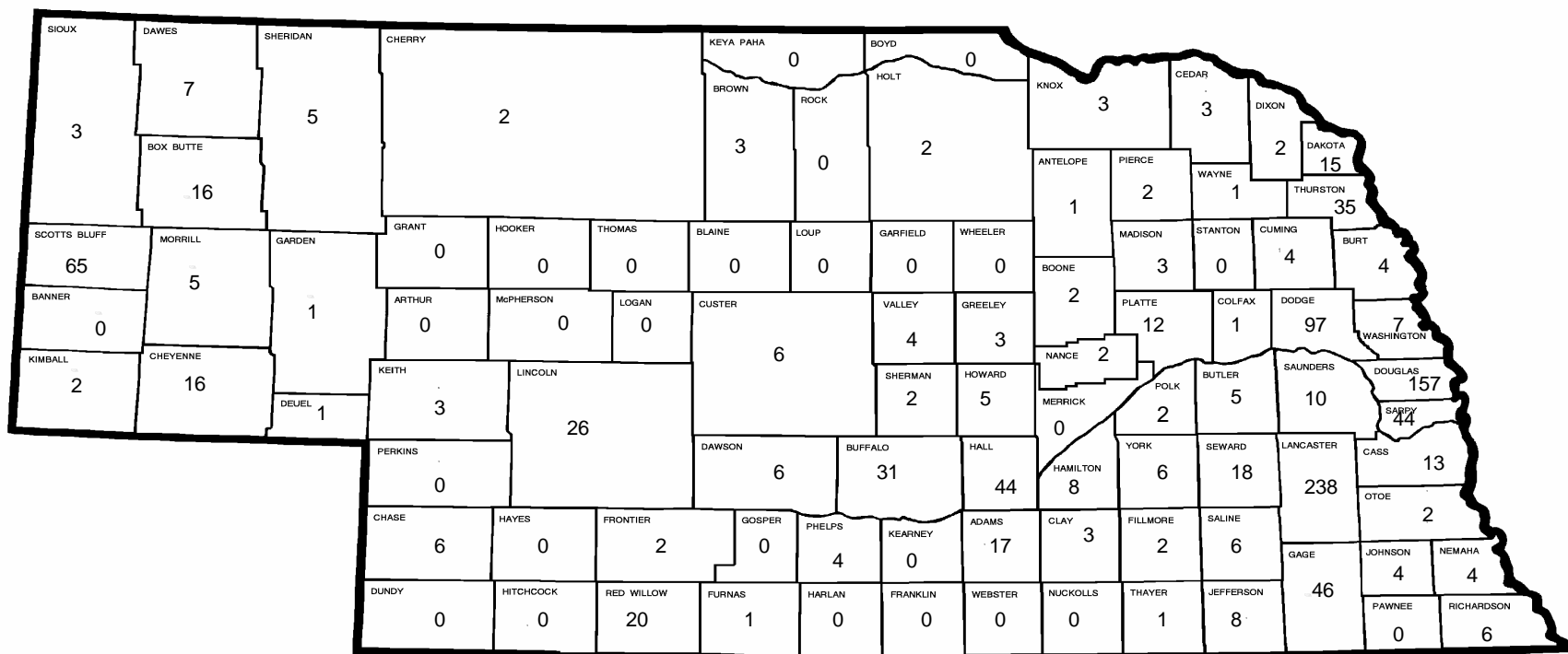
Federal mediators are attorney mediators who have completed 30 hours of Basic Mediation Training, 16 hours of Federal Mediation Training, and a minimum of three supervised mediations prior to approval.

Participants Give High Marks to Mediation

625 individuals completed exit surveys or evaluations. Of those individuals, 559 (89%) were satisfied with mediation. 527 (84%) clients preferred to go to mediation over other choices and 555 (88%) clients would recommend using mediation to solve disputes/conflict.

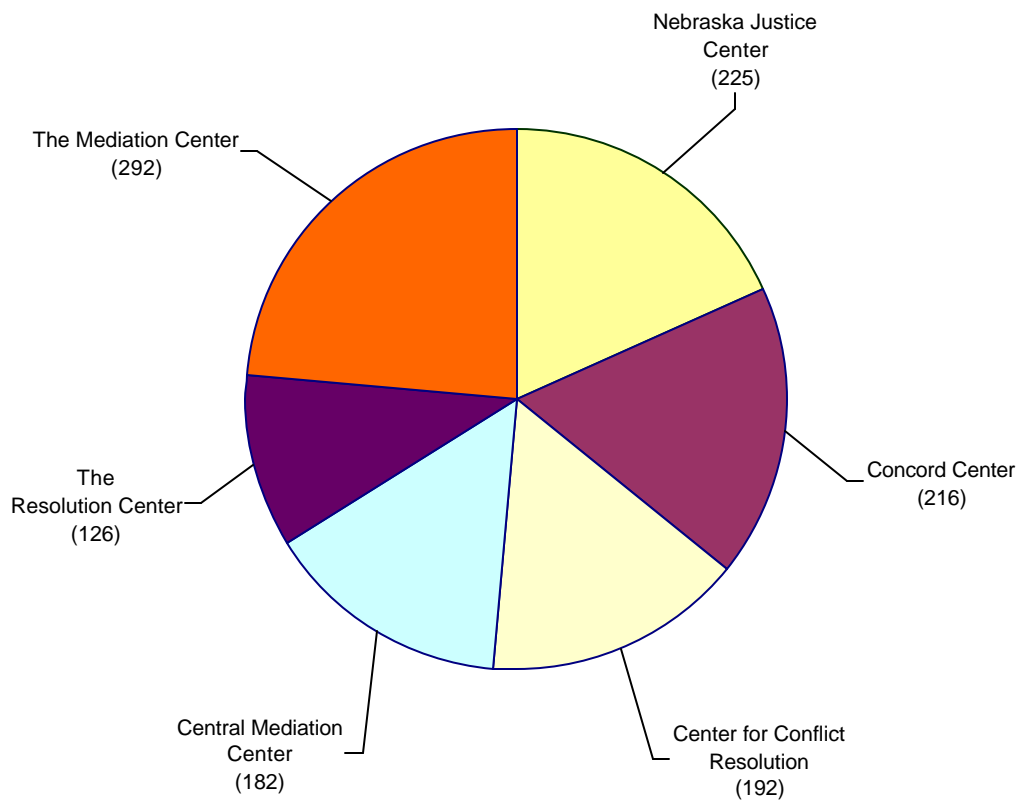
APPENDIX

New Cases Opened by County



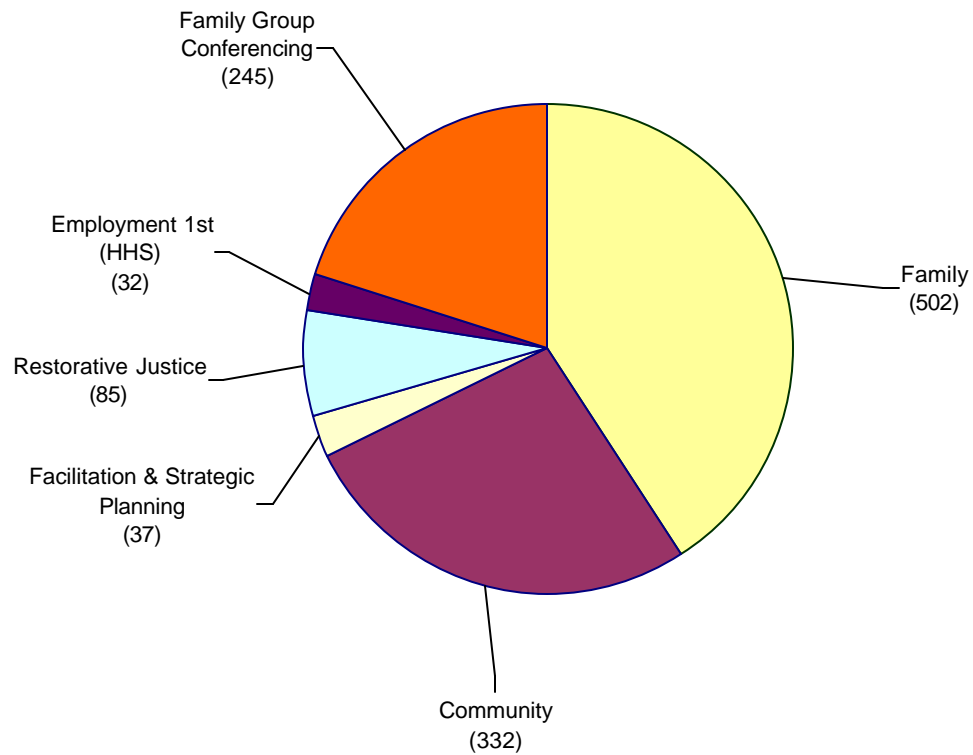
This map represents the total volume of cases in Nebraska that were handled during FY 2002-2003. The mediation centers continue to expand their resources in order to provide access to services in all counties across Nebraska.

New Cases Opened by Mediation Centers



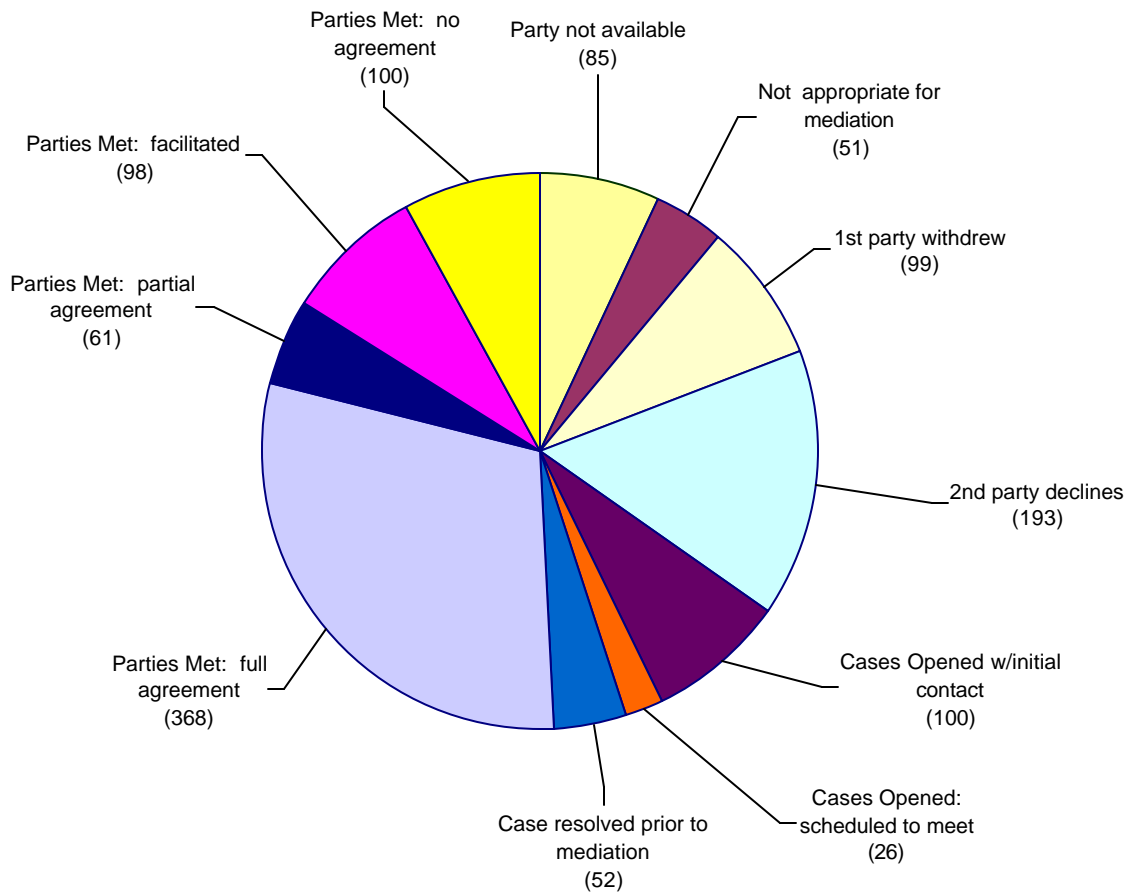
These numbers represent the number of new cases reported open by each center to ODR for the fiscal year 2002-2003. Each center continues to increase their case load year after year while receiving only \$41,400 per center from the State of Nebraska. While some cases are supplemented by grants or contracts, many are not.

Case Types

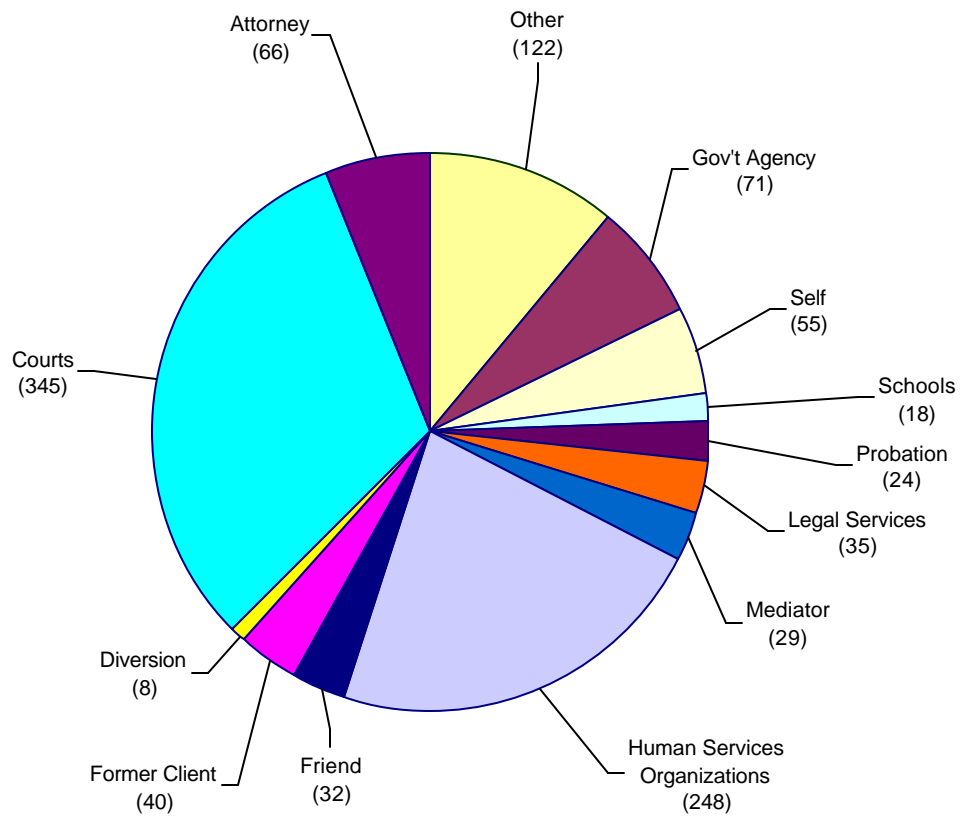


Family cases (including FGC) continue to dominate the overall case level of the mediation centers with community cases (many of which are small claims cases) following in second.

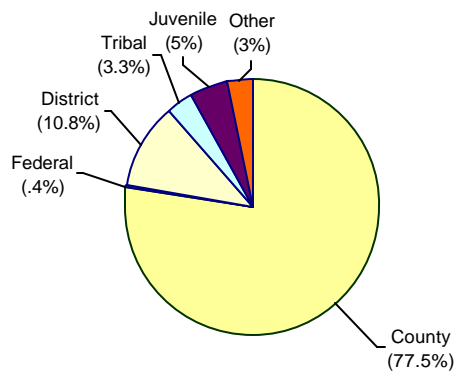
Cases by Disposition



New Cases by Referral Sources

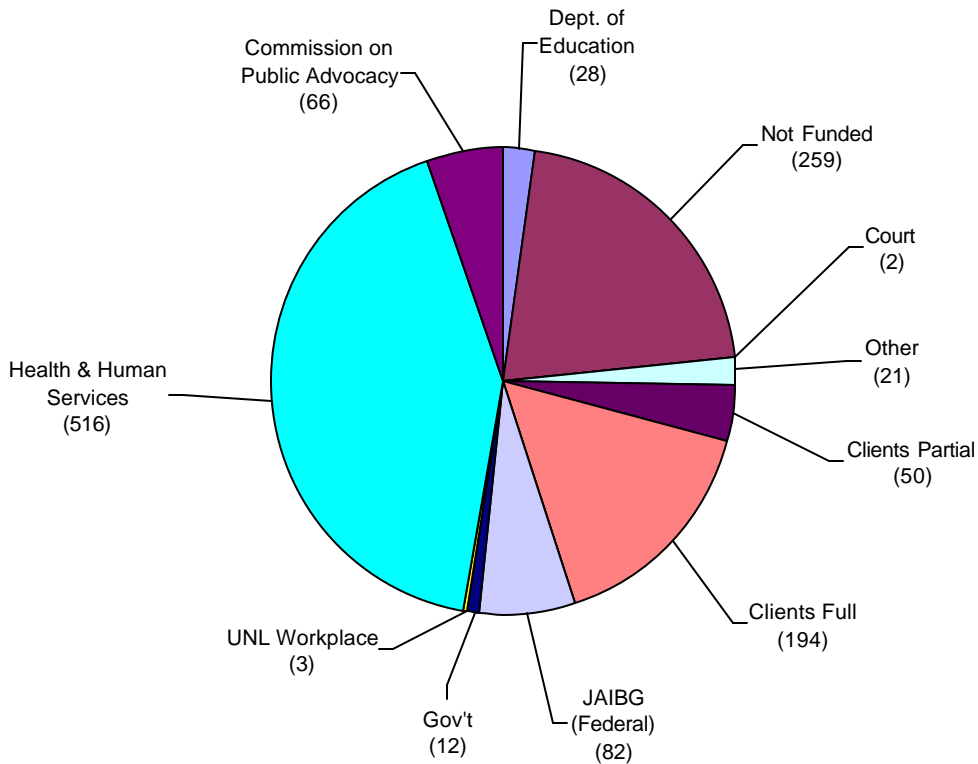


Breakdown of Court Referrals



Of the known referrals, the courts continue to be the single largest source of statewide referrals (32%). However, the entire legal system (courts, attorneys, probation, legal services and diversion) represents 44% of all referrals.

Number of Cases by Funder



(excludes state appropriation)

The centers must annually apply for the state appropriation which was reduced from \$45,000 to \$43,200 and then again reduced to \$41,400 per center because of our state budget crisis. This is one of the only funding sources that the centers have that does not specify exactly how the funds must be spent.

Most contracts or grants that the centers receive to provide funding are specifically tied to a use for a particular case type.

It is important to note that 259 cases have no funding. The 974 cases (79%) where clients did pay for services paid at a substantially lower rate than if those services were received from individuals in the private sector or through traditional court procedures.

The Office of Dispute Resolution is proud to work with such a dedicated and talented group of peace-makers in Nebraska, who continue to inspire ODR to create opportunities for peaceful resolution to conflict.